

Application No.: 10/751,125
Amendment Dated: March 16, 2005
Reply to Office Action of: 01/11/05

REMARKS/ARGUMENTS

Claims 1-5, 8-12, 15 and 16 stand rejected under 35 U.S.C. 103(a) as being anticipated by Wilhelmy (U.S. Patent No. 5,722,977). Applicants have amended claims 1, 15 and 16, and respectfully traverse the rejection as follows.

Claims 1, 15 and 16 recite, inter alia, an osteotome having a bone cutter extending generally perpendicular from the first substantially planar surface with the bone cutter tapering as it extends from the first substantially planar surface.

Wilhelmy discloses an osteotome having a rectangular or quadrilateral cutter head 36. The cutting edge is the end or edge of each of the four planar surfaces. Wilhelmy fails to disclose or suggest a bone cutter which tapers as it extends away from the planar surface. Further, Wilhelmy fails to disclose or suggest a bone cutter which extends perpendicular from the planar surface since the cutter is the edge of the planar surface.

For at least these reasons, Applicants respectfully request that the rejection of claims 1-5, 8-12, 15 and 16 be reconsidered and withdrawn.

Claims 6 and 7 and 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Wilhelmy in view of Urbahns (U.S. 6,265,657). Applicants respectfully traverse the rejection as follows.

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Applicants respectfully reassert (from the previous response) that it is improper to combine the teachings of these two references for two reasons. First, the modification proposed by the Examiner directly contravenes the essential purpose of Wilhelmy of removing a bone plug. Wilhelmy teaches that all four cutting surfaces are razor sharp to minimize the required impact force. See col. 7 lines 10-15. The addition of a superfluous (in the context of Wilhelmy) protuberance to the cutting blade would render the device unfit for its intended use. As such there can be no motivation to combine. Second, in order to combine the teachings of one reference with another their must be at least a threshold showing of a suggestion to combine. There is no such threshold showing here.

For at least these reasons, Applicants respectfully request that the rejection of claims 6 and 7 be reconsidered and withdrawn.

It is believed that the above Remarks represent a complete response to the Office Action and that the Application is now in condition for allowance, and such favorable determination is requested.

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In the event Applicants have overlooked the need for an extension of time or payment of fee, Applicants hereby petition therefore and authorizes that any charges be made to Deposit Account No. 50-2779, ZIMMER TECHNOLOGY, INC. If any questions regarding this Application should arise, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,

ZIMMER TECHNOLOGY, INC.

By



Jonathan D. Feuchtwang, Esq.
Registration No. 41,017

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Zimmer Technology, Inc.
150 North Wacker Drive
Suite 1200
Chicago, Illinois 60606
Telephone: (312) 372-2859
Facsimile: (312) 372-2906
jonathan.feuchtwang@zimmer.com
Customer No. 37235